

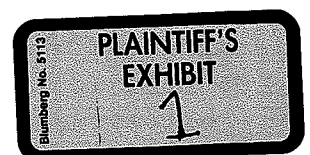
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHRISTOPHER COSTA, M.D.,)	CASE NO. 4:05CV3248
)	
Plaintiff,)	
vs.)	
)	
MICHAEL O. LEAVITT, Secretary,)	AFFIDAVIT OF SALLY A. RASMUSSEN
U. S. Department of Health and)	IN SUPPORT OF PLAINTIFF'S
Human Services, and his Successors;)	MOTION FOR ATTORNEY FEES
UNITED STATES DEPARTMENT)	
OF HEALTH AND HUMAN SERVICES;)	
and the NATIONAL PRACTITIONER)	
DATA BANK, an Entity of and Run by)	
the U.S. Department of Health and)	
Human Services,)	
)	
Defendants.)	

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Sally A. Rasmussen, being first duly sworn upon oath, deposes and states as follows:

1. I am the attorney of record for plaintiff Christopher Costa, M.D. in the above-captioned case.
2. This affidavit is being offered in support of plaintiff's Motion for Attorney Fees.
3. Attached hereto as Exhibit 1-A and incorporated herein by this reference, is an itemization of attorney time personally expended by Sally A. Rasmussen, Jocelyn Walsh Golden (associate) and Carly J. Beusch (associate) in connection with the representation of plaintiff in the above-captioned case. Said itemization reflects (by asterisk) those charges and services setting forth the necessary hours directly attributable only to the pursuit of the representation of plaintiff with respect to the filing of the complaint, the filing of the motion for summary



judgment, the briefing and legal research in support of plaintiff's motion for summary judgment and in opposition to defendants' motion for summary judgment and compliance with the court's periodic orders herein.

4. I have been actively engaged in the practice of law for sixteen (16) years, during which period of time I have engaged in federal, state, and administrative litigation, with a focus on general civil litigation and appellate practice.

5. I am a partner in the Lincoln firm of Knudsen, Berkheimer, Richardson, & Endacott, LLP. I am a member of the Lincoln and Nebraska State Bar Associations. I am also a member of the Nebraska Association of Trial Attorneys.

6. I am admitted to practice in all Nebraska courts, the United States District Court for the District of Nebraska, the Eighth Circuit Court of Appeals, and the United States Supreme Court.

7. I have become familiar with the hourly rates that attorneys and associates charge who are active in practicing law in the United States District Court for the District of Nebraska in cases that are similar to the above-captioned case. I believe a reasonable hourly rate for the services that I performed on behalf of plaintiff in the above-captioned case is One Hundred Twenty-Five Dollars (\$125.00) per hour. I believe a reasonable hourly rate for the services performed by Jocelyn Walsh Golden and Carly J. Beusch is \$95.00.

8. I certify that the attorney fees listed in the attached itemization are correct, have been necessarily incurred in this case, and that the services for which fees have been charged were actually and necessarily performed.

9. The time expended of 51.20 hours for Sally A. Rasmussen, 4.5 hours for Jocelyn

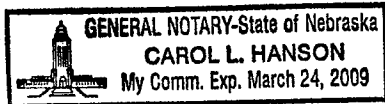
Walsh Golden and 2.8 hours for Carly J. Beusch was reasonable for the nature of this case and the experience and expertise of the attorneys involved.

10. A reasonable attorney fee for the necessary hours directly attributable only to the pursuit of the representation of plaintiff with respect to the filing of the complaint, the filing of the motion for summary judgment, the briefing and legal research in support of plaintiff's motion for summary judgment and in opposition to defendants' motion for summary judgment and compliance with the court's periodic orders herein based upon my hourly rate for the hours I expended along with the hours expended by associate attorneys Jocelyn Walsh Golden and Carly J. Beusch, is \$7,093.50.

8/9/06
Date

Sally A. Rasmussen, #19010

SUBSCRIBED AND SWORN TO before me on this 9th day of August, 2006 by Sally A. Rasmussen, an individual who is personally known to me or who produced satisfactory identification.



Carol L. Hanson
Notary Public

Certificate of Service

The undersigned attorney hereby certifies that on August 9, 2006 a true and correct copy of the foregoing Affidavit, with attachments was served upon defendants' attorney, Paul D. Boeshart, by electronic filing.

BY: / Sally A. Rasmussen
Sally A. Rasmussen, #19019

CIVIL LITIGATION

		Hours
09/21/2005	* CJB Telephone conference with the U.S. Attorney's office in Lincoln; voicemail for Sally Johnson	0.10
	* CJB Telephone conference with Wendy, paralegal with the U.S. Attorney's office in Omaha, regarding service upon government entities	0.20
	* CJB Telephone conference with Daniel Van Horn, attorney with the United States Department of Justice, regarding service upon government entities	0.20
	* CJB Telephone conference with/voicemail for Sam Borin, Regional Chief Counsel of the Department of Health and Human Services	0.10
	* SAR Drafting of Complaint	2.20
09/22/2005	* CJB Telephone conferences with Sam Borin, Regional Chief Counsel for the Department of Health and Human Services	0.20
	* SAR Drafting of Complaint and Legal research re thereto	4.30
	SAR Review of fax from client	0.10
09/23/2005	* SAR Drafting of Praecipe for Summons	0.50
	SAR Reorganization of client files - no charge	1.20
	* SAR Drafting of Summonses (x6)	1.30
09/26/2005	SAR Correspondence to Mark Novotny, Bill Biggs, Francie Reedmann	0.30
	For Current Services Rendered	12.00

BALANCE DUE

Past Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
433.00	0.00	0.00	0.00	0.00	0.00

KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP

ATTORNEYS AT LAW
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID # 47-0395621

CHRIS COSTA, M.D.
514 9TH ST.
GOTHENBURG, NE 69138

Page: 1
December 31, 2005
Account No: 22965.0000
Statement No: 20

\$ _____
Amount Enclosed

PLEASE DETACH AND RETURN WITH YOUR PAYMENT
CIVIL LITIGATION

THIS STATEMENT INCLUDES PAYMENTS RECEIVED THROUGH 12/31/2005

PREVIOUS BALANCE**FEES**

		Hours
12/05/2005		
CJB	* Review of the pleadings and applicable statutory law and the federal rules of civil procedure in a determination of the necessity of filing a responsive pleading	1.40
12/22/2005		
SAR	* Telephone conference with opposing counsel	0.50
12/23/2005		
SAR	* Review of Motion to Extend filed by opposing counsel	0.10

Name on Credit Card _____

Billing Address _____

Please Charge \$ _____ on the following:

☐ Visa

☐ MasterCard

Card Number

Exp. Date (required)

Card Holder Signature _____

Amount Remitted: _____

Statement Date: 12/31/2005

Statement No. 20

Account No. 22965.0000

TO PAY BY CREDIT CARD PLEASE COMPLETE AND RETURN ABOVE
KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

PHONE 402-475-7011
FAX 402-475-8912

FED TAX ID 47-0395621

www.knudsenlaw.com

CHRIS COSTA, M.D.

December 31, 2005

Account No: 22965-0000M

Statement No: 20

CIVIL LITIGATION

		Hours
* SAR	Review (3) Orders, preplanning and scheduling	0.30
* SAR	Telephone conference with opposing counsel and draft planning report	0.70
12/27/2005		
SAR	E-mail to/from clerk	0.20
* SAR	Review of Order	0.10
12/29/2005		
* SAR	Review of Court Order	0.10
	For Current Services Rendered	3.40

TOTAL CURRENT WORK**PAYMENTS**

12/01/2005	Expense Payment for Statement # 18
12/01/2005	Fee Payment for Statement # 17
12/01/2005	Fee Payment for Statement # 18
	Total Payments

BALANCE DUE

KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP

ATTORNEYS AT LAW
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID # 47-0395621

CHRIS COSTA, M.D.
514 9TH ST.
GOTHENBURG, NE 69138

Page: 1
March 31, 2006
Account No: 22965.0000
Statement No: 24

\$ _____
Amount Enclosed

PLEASE DETACH AND RETURN WITH YOUR PAYMENT

CIVIL LITIGATION

THIS STATEMENT INCLUDES PAYMENTS RECEIVED THROUGH 03/31/2006

PREVIOUS BALANCE

FEES

03/10/2006 * SAR Drafting of Motion to Extend Scheduling deadline
For Current Services Rendered

Hours
0.70
0.70

TOTAL CURRENT WORK

BALANCE DUE

Name on Credit Card _____

Billing Address _____

Please Charge \$ _____ on the following:

☐ Visa

☐ MasterCard

Card Number

Exp. Date (required)

Card Holder Signature _____

Amount Remitted: _____

Statement Date: 03/31/2006

Statement No. 24

Account No. 22965.0000

TO PAY BY CREDIT CARD PLEASE COMPLETE AND RETURN ABOVE

KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID 47-0395621

PHONE 402-475-7011

FAX 402-475-8912

www.knudsenlaw.com

KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP

ATTORNEYS AT LAW
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID # 47-0395621

CHRIS COSTA, M.D.
514 9TH ST.
GOTHENBURG, NE 69138

Page: 1
May 31, 2006
Account No: 22965.0000
Statement No: 26

\$ _____
Amount Enclosed

PLEASE DETACH AND RETURN WITH YOUR PAYMENT
CIVIL LITIGATION

THIS STATEMENT INCLUDES PAYMENTS RECEIVED THROUGH 05/31/2006

PREVIOUS BALANCE

FEES

	Hours
04/08/2006 * SAR Drafting of appellate brief	1.80
04/09/2006 * SAR Drafting of appellate brief	4.80
04/10/2006 * SAR Drafting of appellate brief	5.30
04/11/2006 * JWG Analysis of statutes and case law	0.60
* SAR Drafting of appellate brief	10.30
04/14/2006 * SAR Drafting of edits to appellate brief	1.20

Name on Credit Card _____

Billing Address _____

Please Charge \$ _____ on the following:

☐ Visa ☐ MasterCard

Card Number _____

Exp. Date (required) _____

Card Holder Signature _____

Amount Remitted: _____

Statement Date: 05/31/2006

Statement No. 26

Account No. 22965.0000

TO PAY BY CREDIT CARD PLEASE COMPLETE AND RETURN ABOVE
KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID 47-0395621

PHONE 402-475-7011

FAX 402-475-8912

www.knudsenlaw.com

CHRIS COSTA, M.D.

May 31, 2006

Account No: 22965-0000M

Statement No: 26

CIVIL LITIGATION

		Hours
04/25/2006	* SAR Review and analysis of HHS brief on Summary Judgment	1.80
05/01/2006	JWG Analysis of initial briefs and case file.	1.30
05/02/2006	* JWG Analysis of case law regarding motion for summary judgment briefs.	3.70
05/03/2006	* JWG Analysis of case law regarding motion for summary judgment.	0.20
05/04/2006	JWG Analysis of case law regarding motions for summary judgment and drafting of memorandum.	2.20
05/10/2006	* SAR Drafting of Brief in Opposition to Defendant's Motion for Summary Judgment	2.80
05/11/2006	* CJB Analysis of online case and shephardizing of said case	0.10
	* SAR Drafting of brief in opposition to Motion for Summary Judgment	4.10
05/12/2006	* CJB Analysis of online cases and shephardizing of said cases	0.50
	* SAR Drafting of Brief in Opposition to Summary Judgment and research in relation thereto	6.60
05/13/2006	* SAR Review of brief from opposing counsel	0.20
	For Current Services Rendered	<u>47.50</u>

EXPENSES

04/11/2006	Toll Call - 14023307403
04/14/2006	Postage - Motion for Summary Judgment and Brief
04/14/2006	Photocopies - at \$.12 each - 40 pages - Motion for Summary Judgment and Brief
04/17/2006	Photocopies - at \$.12 each - 39 pages - letters from court
04/17/2006	Postage - letters from court
05/12/2006	Photocopies - at \$.12 each - 24 pages - briefs
05/12/2006	Postage - briefs
05/17/2006	Postage - Pleadings

Total Expenses**TOTAL CURRENT WORK**

PAYMENTS

04/05/2006	Fee Payment for Statement # 23
04/24/2006	Fee Payment for Statement # 24
05/15/2006	Fee Payment for Statement # 25
05/24/2006	Fee Payment for Statement # 25

Total Payments**BALANCE DUE**

KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP

ATTORNEYS AT LAW
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

FED TAX ID # 47-0395621

CHRIS COSTA, M.D.
514 9TH ST.
GOTHENBURG, NE 69138

Page: 1
June 30, 2006
Account No: 22965.0000
Statement No: 27

\$ _____
Amount Enclosed

PLEASE DETACH AND RETURN WITH YOUR PAYMENT
CIVIL LITIGATION

THIS STATEMENT INCLUDES PAYMENTS RECEIVED THROUGH 06/30/2006

PREVIOUS BALANCE

FEES

		Hours
06/05/2006	* SAR Review of Defendant's brief	0.20
	For Current Services Rendered	0.20

EXPENSES

06/22/2006 Toll Call - 14023977824
Total Expenses

TOTAL CURRENT WORK

Name on Credit Card _____

Billing Address _____

Please Charge \$ _____ on the following:

☐ Visa

☐ MasterCard

Card Number

Exp. Date (required)

Card Holder Signature _____

Amount Remitted: _____

Statement Date: 06/30/2006

Statement No. 27

Account No. 22965.0000

TO PAY BY CREDIT CARD PLEASE COMPLETE AND RETURN ABOVE
KNUDSEN, BERKHEIMER, RICHARDSON & ENDACOTT, LLP
1248 "O" STREET, SUITE 1000
LINCOLN, NE 68508-1474

PHONE 402-475-7011
FAX 402-475-8912

FED TAX ID 47-0395621

www.knudsenlaw.com